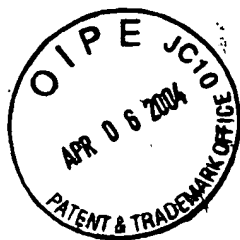


23969-P001US



PATENT

In re Application of:
Brian Doege et al.

For: A METHOD FOR BACTERIALLY
TREATING SMALL-TANK TOILET
SYSTEMS AND AN APPARATUS FOR
USING SAME

Atty Dkt: 23969-P001US

Serial No: 09/723,549
Filed: November 27, 2000
Group Art Unit: 1724
Examiner: Chester T. Barry
703.306.5921

CERTIFICATE UNDER 37 C.F.R. 1.8

I hereby certify that this correspondence (along with any item referred as being enclosed herewith) is being deposited with the U.S. Postal Service as first class mail with sufficient postage in an enveloped addressed to Mail Stop Issue Fee, Commissioner of Patents, Alexandria, Virginia 22313-1450 on April 2, 2004.

GRACIE SOLIS

**COMMENTS ON REASONS FOR STATEMENT
OF REASONS FOR ALLOWANCE**

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

On January 8, 2004, the USPTO issued a notice of allowance for the above referenced patent application. Included with this notice of allowance, was an Examiner's amendment to the claims and a detailed statement of reasons for allowance. On February 4, 2004, the Examiner issued a supplemental amendment to the claims. Herein, Applicant is commenting upon the Examiner's statement of reasons for allowance. Concurrent with the filing of the present paper, Applicant is submitting its payment of the issuance fee, which is due April 8, 2004.

Remarks begin on page 2 of this paper.

REMARKS

The Applicants and Examiner agree that the term "recirculation tank toilet system" is utilized in the patent consistent with a person of ordinary skill in the art of the invention disclosed in the Application would understand. Notice of Allowance, at 3. Nonetheless, in the Examiner's detailed statement of reasons for allowance, the Examiner proceeds to recite a definition for a recirculation tank toilet system that is much more restrictive than what this understanding would be. See Notice of Allowance, at 10.

Recirculation tank toilet systems are well known in the art. Applicants disclosed an example of such a system in its Application and also repeatedly pointed out during prosecution references that reflected the proper definition of this term. For instance, Applicant has noted:

[A] recirculation (or recirculating) tank toilet system is a toilet system in which the liquids are recovered from the toilet waste and thereafter reused to rinse the toilet bowl. See Application, at 11-12, Figures 1A-1B. This term is well understood in the art of the Application. See, e.g., United States Patent No. 3,567,032, issued to Kemper, United States Patent No. 3,776,107, issued to Molus, and United States Patent No. 5,045,188, issued to Tsai.

Appellants' Brief in Support of Appeal, filed March 10, 2003, at 8; see also Amendment Under 37 C.F.R. § 1.116, filed November 26, at 6; Second Amendment Under 37 C.F.R. § 1.111, filed August, 14, 2002, at 13.

This definition comports also with the plain meaning of the terms, i.e., a *system* that comprises a *tank* and a *toilet* and that *recirculates* the liquids between them during normal operation of the system.

As can be seen in Examiner's statements for reasons of allowance, it is those features the Examiner identifies when noting whether or not a prior art reference discloses a recirculation tank toilet system. See Notice of Allowance, at 10-13.

The Examiner's definition recited on page 10 of the Notice of Allowance is thus an unjustified narrowing of the definition, which impermissibly restricts the definition of the term recirculation tank toilet system.

First, while a "recirculation tank toilet system" generally has a filter and a pump, this does not mean that a design that somehow operates in the absence of one or both would no longer be a

recirculation tank toilet system. Such a definition would be contrary to what a person of ordinary skill in the art would understand.

Furthermore, the Examiner has limited the meaning of recirculation tank toilet systems to systems that use water. Applicants note that the all claims recite "*flushing liquids*" and were not limited to just water. In fact, at least some of the all claims originally recited "flushing fluids," and were amended during prosecution to "flushing liquids" and not the more narrow term "water." Given the use of the term liquid within the claim and throughout the Application, it is evident Applicant never intended (nor somehow did) limit the definition of recirculation tank toilet system to situations when the flushing liquid must be water. Applicants do recognize that typically the flushing fluid will be water. Thus, Applicants' discussions that used reference to this typical embodiment using water did not somehow contort the definition of recirculation tank toilet system.

Moreover, the Examiner has interjected that the recirculation tank toilet system must be located in a plane, train, or bus. In doing so, Examiner has morphed into the definition of "recirculation tank toilet systems" other elements in the claims. Each of the allowed claims require that the tank toilet system be an airplane toilet system, a bus toilet system, or a train toilet system. Thus, all discussions related to the recirculation tank toilet systems that describe its use in airplanes, buses, and trains, are due to the context of the claims. It would be error to place the requirements of other claim elements into the definition of recirculation tank toilet system. In fact by doing so, this would render other claim language completely superfluous.

The Examiner has furthered narrowed the definition of "recirculation tank toilet system" by adding to this term the definition that the system be "constantly moving when it is not being charged or emptied, and the contents of the waste are almost constantly agitated due to sloshing thereof such that distinct layers of liquid do not form due to settling, and the tank is emptied not less than two hours after and not more than several days after it is charged with fresh flushing water." Notice of Allowance, at 10. This narrowing definition is completely unwarranted. Again, this shows the inappropriateness of narrowing the definition of recirculation tank toilet systems to uses only in airplanes, buses, and trains. Furthermore, Examiner is wrongly reading into the definition the advantages of using certain embodiments of the invention. Examiner's definition suggests that the systems must be always moving except when the system is being

charged or emptied. No such statement was ever made by Applicants. If such a definition were accepted, then the embodiments disclosed in the Application would not even read on the claims. Planes, buses, and trains do stop from time to time. A recirculation tank toilet system on such a stopped plane, bus, or train does not stop being a recirculation tank toilet system because the system has come to rest.

There also is nothing in the definition of a recirculation tank toilet system that requires it to be emptied not less than two hours after and not more than several days after it is charged with fresh flushing water (or liquids). While it may be preferable to do so, the definition of a recirculation tank toilet system is not contingent on the duration and frequency of recharging the liquids.

In sum, a person of ordinary skill in the art of the Application would understand a recirculation (or recirculating) tank toilet system is "a toilet system in which the liquids are recovered from the toilet waste and thereafter reused to rinse the toilet bowl." As noted above, it is this point of distinction that the Examiner utilized in its Notice of Allowance when differentiating systems that were recirculation tank toilet systems and those that were not.

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

Attorneys for Applicants

By: 

Ross Spencer Garsson
Reg. No. 38,150
P.O. Box 50784
Dallas, Texas 75201
(512) 370-2870

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

To be used for all correspondence after initial filing)

Total Number of Pages in This Submission

7

Application Number

09/723,549

Filing Date

November 27, 2000

First Named Inventor

Brian Doege

Art Unit

1724

Examiner Name

Chester T. Barry

Attorney Docket Number

23969-P001US

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Postcard, Issue Fee*, Comments on Reasons for Statement of Reasons for Allowance
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	*Issue Fee: Check No. 004269 in the amount of \$665.00 for Issue Fee; Issue Fee (PTOL-85) and	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Ross Spencer Garsson Winstead Sechrest & Minick P.C.
Signature	<i>[Signature]</i>
Date	4/2/04

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Gracie Solis
Signature	<i>[Signature]</i>
Date	04/02/2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.